



PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF : Stephen Spaulding Hickok  
FOR : **METAL-CONTAINING COMPOSITIONS,  
PREPARATIONS AND USES**  
SERIAL NO. : 10/070,062  
FILED : February 27, 2002  
LAST OFFICE ACTION : September 9, 2004  
EXAMINER : Alton Nathaniel Pryor  
ART UNIT : 1616  
CONFIRMATION NO. : 9179  
ATTORNEY DOCKET NO. : **JFMZ 2 00183**

**RESPONSE TO RESTRICTION REQUIREMENT**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

In the Office Action dated September 9, 2004, a six-way restriction requirement was entered. It was stated in the Office Action that Group I, claims 1-8, 11 and 13-24, are drawn to metal compositions; Group 2, claims 25-28, drawn to a method of treating pathogenic diseases with the metal composition; Group III, claims 29, 30 and 34, drawn to treating water with the metal composition; Group IV, claim 31, drawn to treating food with the metal composition; Group V, claim 32, drawn to treating flowers with the metal composition; and, Group VI, claim 33, drawn to treating metal with the metal composition. Applicant was required to elect a single species to which the claims would be restricted if no generic claim was finally held to be allowable.

In reply, applicant elects the claims of Group I, claims 1-8, 11 and 13-24, with traverse. It is applicant's understanding, at least in Europe, an applicant can claim a composition, i.e., the claims of Group I, as well as at least one use of that

composition, i.e., any of Groups II - VI, as well as a method of making that composition all in the same patent application. Therefore, applicant believes that it is entitled to maintain in the instant application, not only the claims of Group I, but also one of the sets of claims of Groups II - VI. In this connection, applicant elects the claims of Group II, claims 25-28, drawn to treating pathogenic diseases with the metal composition.

In sum, applicant elects the claims of Group I with traverse, and contends that the claims of Group II also belong in the instant application and should be examined therein.

Respectfully submitted,

FAY, SHARPE, FAGAN,  
MINNICH & MCKEE, LLP

December 9, 2004

Date




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CERTIFICATE OF MAILING

I certify that this Information Disclosure Statement and accompanying document(s) are being deposited with the United States Postal Service as First Class mail under 37 C.F.R. 1.8, addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date indicated below.

Date
December 9, 2004

Signature

Printed Name
Kathleen A. Nimrichter